


PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) CH920010068US1	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]  on _____  Signature _____  Typed or printed name _____		Application Number 10/645,104	Filed 8/21/2003
		First Named Inventor  Dittman	
		Art Unit 2616	Examiner Jianye Wu
Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.  This request is being filed with a notice of appeal.  The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.			
I am the  <input type="checkbox"/> applicant/inventor.  <input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)  <input checked="" type="checkbox"/> attorney or agent of record. Registration number 30,374  <input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____		 Signature Anne Vachon Dougherty Typed or printed name  (914) 962-5910 Telephone number  February 1, 2008 Date	
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.			
<input checked="" type="checkbox"/> *Total of 1 forms are submitted.			

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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The Examiner has finally rejected the claims of the present application. Claims 1-12, as amended, have been rejected under 35 USC 112 as failing to comply with the written description requirement. The Examiner contends that the recitation of:

"said data packet being one of a plurality of data packets received in an original packet order",

"reordering the data packets after the processing into the original packet order", and

"preceded the one or more fast data packets in the original packet order"

are not supported by the Specification as originally filed. Applicants respectfully disagree with the Examiner.

In support of the language, "said data packet being one of a plurality of data packets received in an original packet order", Applicants point to the Specification at Paragraph [0025] that teaches "[d]ata packets which are received...", which clearly teaches a plurality of data packets. Further in paragraph [0025], the Specification teaches that the "forwarding engine 8 takes each packet" of the plurality of packets for handling. With regard to the original packet order, the

Specification teaches throughout that the invention is "reordering the data packets after the processing into the order they had prior to the processing" (see: [0006]. Paragraph [0010] teaches "attaining an output data packet stream with the correct packet order". Clearly, therefore, the Specification teaches "a data packet being one of a plurality of data packets received in an original packet order".

In support of the "reordering...after processing" claim language, Applicants point to paragraph [0005] wherein the Specification clearly teaches "rearranging the processed data packets after processing for attaining the correct order of the slow and fast processed data packets." Paragraph [0006] states "reordering the data packets after the processing into the order they had prior to the processing". Paragraph [0011] teachings "an already processed fast data packet...is stored in the memory if not all slow data packets...have already been processed". Paragraph [0040] expressly states that "[i]n this way, the processed data packets show the same order as before the processing, independent of slower or faster processing". The Abstract also expressly states that

"the processed data packets are in the same order as prior to the processing."

Applicants point out that the invention is explicitly directed "to prevent disordering of the packets due to processing some packets in the slow path and some packets in the fast path" (see: Paragraph [0035]). The Examiner clearly erred in rejecting the claims as unsupported. Applicants respectfully contend that the Examiner overlooked the succinctly stated object of the invention (Paragraph [0005]); the clearly described Summary of the Invention (for example in Paragraphs [0006] and [0011]); the explicit teachings in the Detailed Description of the Invention (for example, Paragraphs [0033], [0034], [0035], [0040] and [0044]); and the Abstract, when rejecting the claims as failing to comply with the written description requirement. All of the foregoing paragraphs teach reordering data packets **after processing** to place them in the original packet order".

With respect to the claim feature referring to one or more slow data packets that "preceded the one or more fast data packets in the original packet order",

Applicants remind the Examiner that Applicants had amended the claim language to recite "preceded...in the original packet order" in response to the Examiner's concern that the originally translation of the claim language was "non-standard and awkward". Applicants point to the teachings found, for example, in paragraph [0006] where it states that "the slow data packets that before the processing were in order before the fast data packets" (see: also, Paragraphs [0007], [0008], [0033], [0041], [0044]) and paragraph [0032] wherein the Specification refers to "the following data packets". It is clear that "the slow data packets that...were in order before the fast data packets" are taught by the Specification. Applicants replaced the term "were in order before" to "preceded" to make the claim less "awkward", but clearly the meaning was not changed. As such, the claim language is undeniably supported by the original teachings.

The Examiner cited a partial quote from Paragraph [0050] which states "reordering is done before the first distributing unit 17". The cited paragraph and the preceding paragraph describe the instance where the data

flow has been divided into several data packets for transmission, so that the original packet order has already been disrupted (see: Paragraph 49, on page 16, lines 24-26). At the destination address, therefore, it is necessary for the data packet to be reordered after transmission and prior to processing (see: page 16, lines 32-36). Paragraph [0050] expressly states that "[i]f the processing order for the data packets of a data flow is to be obtained after transmitting the data packets, then the identification number may be used for reordering the data packets prior to processing...this reordering is done before the first distributing unit 17". Applicants respectfully assert that the Examiner cited the passage from Paragraph [0050] **completely** out of context and erroneously rejected the claims under 35 USC 112.

Applicants believe that the Examiner erred in ignoring explicit teachings, in interpreting a passage out of context, and in issuing a final rejection at this stage of the prosecution. Applicants respectfully request withdrawal of the final status of the Office Action and reopening of prosecution of the application.